## Declaration of Joseph Ostini

## **EXHIBIT 2**

THE O'MARA LAW FIRM, P.C. THE DIGUISEPPE LAW FIRM, P.C. 1 DAVID C. OMARA RAYMOND M. DIGUISEPPE\* 4320 Southport-Supply Road (Nevada Bar No. 8599) 2 311 East Liberty Street Suite 300 Reno, NV 89501 Southport, NC 28461 3 P: (775) 323-1321 P: 910-713-8804 4 F: (775) 323-4082 E: law.rmd@gmail.com E: david@omaralaw.net 5 FIREARMS POLICY COALITION 6 ADAM KRAUT\* WILLIAM SACK\* 7 1215 K Street, 17th Floor 8 Sacramento, CA 95814 P: (916) 596-3492 9 E: akraut@fpclaw.org E: wsack@fpclaw.org 10 Attorneys for Plaintiff 11 12 UNITED STATES DISTRICT COURT DISTRICT OF NEVADA 13 ROGER PALMER, et al., Case No.: 3:21-cv-00268 14 Plaintiffs, **DECLARATION OF JOSEPH** 15 v. **OSTINI IN SUPPORT OF** 16 PLAINTIFF'S MOTION FOR STEPHEN SISOLAK, in his official capacity as PRELIMINARY INJUNCTION Governor of Nevada, et al., 17 Judge: Hon. Miranda Du 18 Defendants. Date: July 16, 2021 Time: 1:30 p.m. 19 **Courtroom: 5** 20 **DECLARATION OF JOSEPH OSTINI** 21 I, Joseph Ostini, declare as follows: 22 23 1. I am not a party in the above-titled action. I am over the age of 18, have personal 24 knowledge of the facts referred to in this declaration, and am competent to testify to the matters stated 25 below. 26 2. I am a licensed attorney in the state of California. 27 28

3. I have reviewed, and I am familiar with the various firearms definitions in the Nevada Revised Statutes, including those enacted under AB 286 (2021).

- 4. The self-manufacture of firearms has long been common practice throughout the United States, and the growing popularity of the practice is well documented. The popularity of non-firearm object items like "80%" AR-15 lower receivers and handgun receivers, including but not limited to Polymer80-type, has been increasing steadily over the last several years. The number of online merchants that I have documented selling these items illustrates this fact.
- 5. The Bureau of Alcohol Tobacco, Firearms and Explosives website itself directly states individuals may self-build their own firearms for personal use without any special license.<sup>1</sup>
- 6. According to one policy paper, "Currently, there are roughly 80 dealers in the US online market selling 80 percent lowers. Most of these websites are very straightforward and make purchasing the pieces quick and easy. In the past year, ghost gun purchases have grown drastically in popularity with over a dozen distributors reporting shipping delays since March 2020 because of overwhelming demand. The growth coincided with the beginning of pandemic lockdowns in the US, as well as a jump in firearm sales writ large." These findings are consistent with my findings documented below, which indicate that there are a significant number of sellers of firearm precursor parts, and that that their popularity is at an all-time high.

<sup>&</sup>lt;sup>1</sup> "Does an individual need a license to make a firearm for personal use?" 2020, https://www.atf.gov/firearms/qa/does-individual-need-license-make-firearm-personal-use.

<sup>&</sup>lt;sup>2</sup> "Ghost Guns: A Haunting New Reality," Simmons, Nicholas, 2021, <a href="https://rockinst.org/wp-content/uploads/2021/04/210413-Ghost-Guns-web.pdf">https://rockinst.org/wp-content/uploads/2021/04/210413-Ghost-Guns-web.pdf</a>.

- 7. Everytown for Gun Safety, an organization that advocates for increased gun control, has reported having identified 80 online sellers of unfinished frames and/or receivers in its own assessment.<sup>3</sup>
- 8. From July 2, 2021, to July 7, 2021, I undertook the research of new commercially available firearm precursor components for sale within the United States.
- 9. This research was conducted by reviewing the websites of most readily identified major retailers of firearms components within the U.S. I identified 54 merchants in the U.S. that offered for sale unfinished AR-15 lower receivers, commonly referred to in the marketplace as "80%" lower receivers, and 25 merchants that offered for sale the Polymer80-type, or "80%", unfinished handgun receivers. The completed firearms that can be home-built using these components are the two most commonly self-manufactured firearms in the U.S. at present.
- 10. Attached as **Exhibit 1** is a true and correct copy of a table I authored, which lists the numerous retailers that offer for commercial sale precursor components, including the unfinished non-firearm object "80%" receivers from which individuals can home-build rifles and handguns. These unfinished receivers are categorically prohibited by the Nevada Statutes, but are freely available for sale throughout the vast majority of the United States. Exhibit 1 is supported by the listed web addresses illustrating the products available for sale. Based on normal market conditions, it stands to reason that the widespread commercial retail availability of firearm precursor parts mirrors the demand for such parts for self-manufacturing of firearms.
- 11. Individuals are also making their own firearm receivers and components from scratch utilizing a variety of manufacturing methods. Technological advances in equipment like CNC

<sup>&</sup>lt;sup>3</sup> "Untraceable: The Rising Specter of Ghost Guns," 2020, https://everytownresearch.org/report/therising-specter-of-ghost-guns/.

machines and 3D printers—and decreases in equipment costs—have lowered the barriers to entry of their widespread use in self-manufacturing firearms.

12. In analyzing Nevada's self-manufacture prohibition, I have concluded that the statute effects a total, categorical ban on the possession all firearm precursor materials, as well as the self-building of all firearms for the average citizen, including those of types in widely popular, lawful common use. I have additionally concluded that, amongst the handful of outlier states that have elected to regulate related conduct, Nevada's statute represents the broadest and most far-reaching prohibition on the self-building of firearms and possession of their precursor parts.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed within the United States on July 9, 2021.

Joseph Ostini

## **EXHIBIT 1**

EXHIBIT 1 NON-FIREARM OBJECT / PREDECESSOR ITEM SURVEY				
ITEM	MERCHANT	LINK TO PRODUCT		
AR-15 "80%" Lower Receiver NFO	Right to Bear	https://www.righttobear.com/Polymer80-308-80-Lower-Receiver-Jig-OD-Green-p/p80-308kit-odgreen.htm?Click=64422		
AR-15 "80%" Lower Receiver NFO	Omega Tactical Distribution	https://www.omegamanufacturinginc.com/Special-BuyPolymer80-AR-15-Lower-Receiver-Phoenix-Gen-2-80-with-Jig-and-bits_p_19469.html		
AR-15 "80%" Lower Receiver NFO	Primary Arms	https://www.primaryarms.com/p80-g150-80-percent-lower-receiver-with-jig-system-kit-black?avad=211021_b22a755c1		
AR-15 "80%" Lower Receiver NFO	Durkin Tactical	https://www.durkintactical.com/product/5-56-80-lower-receiver-raw/		
AR-15 "80%" Lower Receiver NFO	OutdoorSports-USA	https://outdoorsportsusa.com/Cerakote-Sniper-Gray-AR-15-80-percent-Billet-Lower		
AR-15 "80%" Lower Receiver NFO	Locked Loaded	https://lockedloaded.com/product/640901515984?gundeals		
AR-15 "80%" Lower Receiver NFO	22Mods4All	https://www.22mods4all.com/zaviar-firearms-ar-15-black-cerakote-mil-spec-80-lower-receiver/		
AR-15 "80%" Lower Receiver NFO	Guns 80	https://guns80.com/HYBRID-80-COSMETIC-BLEMS-AR15-80-lower-and-Jig-p262092355		
AR-15 "80%" Lower Receiver NFO	AR Junkies	https://www.arjunkies.com/am-15-80-lower-upper-comboraw-aluminum.html		
AR-15 "80%" Lower Receiver NFO	Joe Bob Outfitters	https://www.joeboboutfitters.com/New-Frontier-Armory-80-AR-15-Billet-Lower-Receive-p/nfa-80percentlower.htm		
AR-15 "80%" Lower Receiver NFO	Brownells	https://www.brownells.com/rifle-parts/receiver-parts/receivers/lower-receivers/brn-180m-lower-receiver-prod134121.aspx		
AR-15 "80%" Lower Receiver NFO	GunStuff TV	https://gunstuff.tv/product/polymer80-p80rl556v3bl-ar-15-80-lower-receiver-kit-polymer-black/		
AR-15 "80%" Lower Receiver NFO	John's Militia Gear	https://www.johnsmilitiagear.com/products/polymer80-850283007612-3364		
AR-15 "80%" Lower Receiver NFO	BattleHawk Armory	https://battlehawkarmory.com/product/polymer80-p80rl556v3bl-ar-15-80-lower-receiver-kit-polymer-black		
AR-15 "80%" Lower Receiver NFO	DR Gun Supply	https://www.drgunsupply.com/products/rifles-polymer80-p80rl556v3bl-850283007612-688		
AR-15 "80%" Lower Receiver NFO	GrabAGun.com	https://grabagun.com/p80-rl556v3-fde-rl556v3-ar15-lower-recv-kit-80.html		
AR-15 "80%" Lower Receiver NFO	Smokin' Guns	https://www.mysmokinguns.com/products/accessories-polymer80-p80rl556v3bl-850283007612-3449		
AR-15 "80%" Lower Receiver NFO	Diamond District Firearms	https://www.diamonddistrictfirearms.com/products/rifles-polymer80-p80rl556v3bl-850283007612-4779		

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ITEM	MERCHANT	LINK TO PRODUCT		
AR-15 "80%" Lower Receiver NFO	Keely Arms	https://shop.keelyarms.com/products/rifles-polymer80-p80rl556v3bl-850283007612-3791		
AR-15 "80%" Lower Receiver NFO	Liberty Sport & Pawn	https://www.libertysportandpawn.net/products/rifles-polymer80-p80rl556v3bl-850283007612-4109		
AR-15 "80%" Lower Receiver NFO	Keely Arms	https://shop.keelyarms.com/products/rifles-polymer80-p80rl556v3bl-850283007612-3791		
AR-15 "80%" Lower Receiver NFO	Tin Star Shooting Range	https://www.tinstarshootingrange.com/products/rifles-polymer80-p80rl556v3bl-850283007612-707		
AR-15 "80%" Lower Receiver NFO	Liberty Arms	https://www.libertyarmstn.net/products/rifles-polymer80-p80rl556v3bl-850283007612-5161		
AR-15 "80%" Lower Receiver NFO	Cornerstone Arms	https://store.cornerstonearms.com/products/accessories-polymer80-p80rl556v3bl-850283007612-2530		
AR-15 "80%" Lower Receiver NFO	Hoosier Armory	https://www.hoosierarmory.com/products/accessories-polymer80-p80rl556v3bl-850283007612-480		
AR-15 "80%" Lower Receiver NFO	Houston Gun Store	https://www.houstongunstore.com/products/glock-polymer80-rl556v3bl-850283007612-rl556v3bl-4740		
AR-15 "80%" Lower Receiver NFO	Palmetto State Armory	https://palmettostatearmory.com/polymer-80-rl556v3-lower-receiver-kit-black-rl556v3bl.html?avad=211021_f22a7148d		
AR-15 "80%" Lower Receiver NFO	TheGunDock.com	https://store.thegundock.com/product/80-lower-billet-raw		
AR-15 "80%" Lower Receiver NFO	Pew Pew Guru	https://shop.pewpewguru.com/products/hunting-alex-pro-firearms-lp721-787790167754-3860		
AR-15 "80%" Lower Receiver NFO	Tomkat Armory	https://tomkatarmory.com/80-lower-ar-15-marines-logo		
AR-15 "80%" Lower Receiver NFO	Ceratac	https://www.ceratac.com/Lower-Receiver-Cerakote-Blemished-p/lr-556-80-c-b.htm		
AR-15 "80%" Lower Receiver NFO	Limitless America	https://limitlessamerica.com/noreen-firearms-80-ar15-billet-lower-receiver-andodized-black/		
AR-15 "80%" Lower Receiver NFO	Durkin Tactical	https://www.durkintactical.com/product/am-15-80-lower-receiver-anodize/		
AR-15 "80%" Lower Receiver NFO	Delta Team Tactical	https://gun.deals/product/mercury-precision-thebe-billet-ar-15-80-aluminum-lower-receiver-thin-cutouts-magwell-made-us		
AR-15 "80%" Lower Receiver NFO	3CR Tactical	https://3crtactical.com/product/80-ar-15-un-anodized-lower-receiver/		
AR-15 "80%" Lower Receiver NFO	Davidson Defense	https://davidsondefense.com/Mercury-Precision-Thebe-Billet-AR-15-80-Aluminum-Lower-ReceiverThin-Cutouts-On-MagwellMade-In-The-USA_p_10569.html		

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ITEM	MERCHANT	LINK TO PRODUCT		
AR-15 "80%" Lower Receiver NFO	Black Aura Tactical	https://blackauratactical.com/80-lower-receiver/		
AR-15 "80%" Lower Receiver NFO	Omega Tactical Distribution	https://www.omegamanufacturinginc.com/Mercury-Precision-Thebe-Billet-AR-15-80-Aluminum-Lower-Receiver-Thin-Cutouts-On-MagwellMade-In-The-USA-Gun-Deal-Exclusive_p_18807.html		
AR-15 "80%" Lower Receiver NFO	Always Armed	https://alwaysarmed.com/always-armed-80-lower-receiver-black-anodized/?showHidden=true&_ga=2.130675724.201161145.1619008269-1725590213.1616422493		
AR-15 "80%" Lower Receiver NFO	Ghost Firearms	https://www.ghostrifles.com/ghost-firearms-80-lower-receiver-10-pack-black-anodized/?showHidden=true&_ga=2.208461712.389625947.1618834407-1693479043.1592491656		
AR-15 "80%" Lower Receiver NFO	Midway USA	https://www.midwayusa.com/product/1092916295905?utm_source=gundeals&utm_medium=shopping&utm_camp aign=moderatorservice&?gd		
AR-15 "80%" Lower Receiver NFO	Tactical R&R	https://www.tactical2r.com/Anderson-80-LOWER-RECEIVER-ANODIZED-p/d2-k067-c000.htm		
AR-15 "80%" Lower Receiver NFO	Hinterland Outfitters	https://www.hinterlandoutfitters.com/308kit-warrhog-recv-p-76802.html		
AR-15 "80%" Lower Receiver NFO	Tin Star Shooting Range	https://www.tinstarshootingrange.com/products/accessories-polymer80-p80308kitfde-850283007117-707		
AR-15 "80%" Lower Receiver NFO	Cornerstone Arms	https://store.cornerstonearms.com/products/accessories-polymer80-p80308kitfde-850283007117-2530		
AR-15 "80%" Lower Receiver NFO	Rainier Arms	https://www.rainierarms.com/james-madison-tactical-jmt-carbon-50-ar-15-80-lower-receiver-with-jig-black/		
AR-15 "80%" Lower Receiver NFO	Moriarti Armaments	https://moriartiarmaments.com/ar-9/ar-9-lowers/ar-9-9mm-80-anodized-lower-receiver-anodized-black-glock-style-mag-ar9lower		
AR-15 "80%" Lower Receiver NFO	Adventure Survivalist	https://adventuresurvivalist.com/shop/ar-15-lower-parts/ar-15-skeleton-80-lower-receiver/		
AR-15 "80%" Lower Receiver NFO	Venom Defense and Design	https://venom-defense.com/ar-15-billet-80-lower-receiver-backordered-3-weeks/		
AR-15 "80%" Lower Receiver NFO	Wise Arms	https://shop.wisearms.com/wise-arms-billet-80-ar-15-lower-receiver-uncoated/		
AR-15 "80%" Lower Receiver NFO	Mid State Firearms	https://www.midstatefirearms.com/80-Machined-Lower-No-FFL-required-anodized-black-80LOWERBLACK.htm?categoryId=-1		
AR-15 "80%" Lower Receiver NFO	Project Defense Co.	https://projectdefensecompany.com/LR80-BIL?keyword=80%20		
AR-15 "80%" Lower Receiver NFO	Noreen Firearms	https://onlylongrange.com/noreen-billet-80-223-lower-receiver/		
AR-15 "80%" Lower Receiver NFO	Tactical Machining	https://www.tacticalmachining.com/80-lower-10-pack.html		

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ITEM	MERCHANT	LINK TO PRODUCT		
AR-15 "80%" Lower Receiver NFO	Classic Firearms	https://www.classicfirearms.com/anderson-ar-15-80-percent-lower-anodized-no-ffl-required/		
Handgun "80%" Lower Receiver NFO	Omaha Outdoors	https://www.omahaoutdoors.com/polymer-80-pf940v2-frame-jig/?attribute_pa_color=black		
Handgun "80%" Lower Receiver NFO	Brownells	https://www.brownells.com/handgun-parts/frame-parts/frames/80-pf940v2-frame-black-textured-sku100025335-113451-207512.aspx		
Handgun "80%" Lower Receiver NFO	Primary Arms	https://www.primaryarms.com/polymer-80-pfc9-serialized-glock-19-compact-frame-fde?avad=211021_a22ab6ee1		
Handgun "80%" Lower Receiver NFO	Right To Bear	https://www.righttobear.com/Polymer80-308-80-Lower-Receiver-Jig-OD-Green-p/p80-308kit-odgreen.htm?Click=64422		
Handgun "80%" Lower Receiver NFO	Arm or Ally	https://www.armorally.com/shop/polymer80-pf45-pistol-frame-kit/		
Handgun "80%" Lower Receiver NFO	MMC Armory	https://mmcarmory.com/micro-conversion-kit-fde-for-poly80-poly80-80-frame-kit.html		
Handgun "80%" Lower Receiver NFO	Delta Team Tactical	https://www.deltateamtactical.com/Polymer-80-PF940C-80-Compact-Pistol-Frame-KitBlackFits-All-Gen-3-Glock-19-23-Newest-Gen-II-Better-Aggressive-Texture-ADD-TO-CART-DISCOUNT_p_26174.html		
Handgun "80%" Lower Receiver NFO	Omega Tactical Distribution	https://www.omegamanufacturinginc.com/Special-BuyPolymer-80-PF940C-80-Compact-Pistol-Frame-KitBlackFits-All-Gen-3-Glock-19-23-Newest-Gen-II-Better-Aggressive-Texture_p_19051.html		
Handgun "80%" Lower Receiver NFO	Botach	https://botach.com/polymer80-glock-compatible-frame-kit/?avad=211021_e22aa8415		
Handgun "80%" Lower Receiver NFO	Mid State Firearms	https://www.midwayusa.com/product/1018339425		
Handgun "80%" Lower Receiver NFO	Karri's Guns	https://karrisguns.com/polymer-80-pf940v2-full size-80-frame-and-lower-parts-kit-w-burnt-bronze-cerakote-control-parts.html		
Handgun "80%" Lower Receiver NFO	Davidson Defense	https://davidsondefense.com/dd-diy-pistol-kits-g17-frame-glock-mount.html		
Handgun "80%" Lower Receiver NFO	Durkin Tactical	https://www.durkintactical.com/product/pf320ptex-grip-module-black/		
Handgun "80%" Lower Receiver NFO	Arm or Ally	https://www.armorally.com/shop/polymer80-pf940v2-pistol-frame-kit/		
Handgun "80%" Lower Receiver NFO	Wholesale Hunter	https://www.wholesalehunter.com/Product/Details/11230928?fs=1		
Handgun "80%" Lower Receiver NFO	Locked Loaded	https://lockedloaded.com/product/polymer80-p80pfc9blk-g1923-gen3-compatible-80-pistol-frame-polymer-black-serialized#product_detail		
Handgun "80%" Lower Receiver NFO	Always Armed	https://alwaysarmed.com/polymer80-pf940cl-compact-longslide-frame/		

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ITEM	MERCHANT	LINK TO PRODUCT		
Handgun "80%" Lower Receiver NFO	KM Tactical	https://kmtactical.net/product/polymer-80-80-black-pistol-frame-kit-pf940cv1/		
Handgun "80%" Lower Receiver NFO	Rockey Brass	https://www.rockeybrass.com/Polymer-80-Glock-43-PF9SS-80-Single-Stack-Pistol-Frame-Kit_p_7562.html		
Handgun "80%" Lower Receiver NFO	3CR Tactical	https://3crtactical.com/product/9mm-polymer80-full-size-glock-19-frame-slide-barrel-builders-kit/		
Handgun "80%" Lower Receiver NFO	Ghost Firearms	https://www.ghostrifles.com/polymer80-pf940c-80-compact-frame-black/		
Handgun "80%" Lower Receiver NFO	Rainier Arms	https://www.rainierarms.com/polymer80-pf45-80-full-size-pistol-textured-frame-kit-for-glock-20-21-black/		
Handgun "80%" Lower Receiver NFO	Boogaloo Supply	https://www.boogaloosupply.com/product/polymer-80-pf940c-80-compact-pistol-frame-kit-fde/		
Handgun "80%" Lower Receiver NFO	80% Arms	https://www.80percentarms.com/products/gst-9-pistol-frame/		
Handgun "80%" Lower Receiver NFO	KM Tactical	https://kmtactical.net/product/polymer-80-80-black-pistol-frame-kit-pf940cv1/		
Handgun "80%" Lower Receiver NFO	Mag Commander	https://magcommander.com/polymer80-pf940cv1-80-compact-pistol-frame-kit-glock-19-23-32-compatible-black/		
3D Printer	Creality	https://www.creality3dofficial.com/products/official-creality-ender-3-3d-printer		
CNC Mill	Defense Distributed	https://ghostgunner.net/product/ghost-gunner-3-deposit/		